

R E S O L U T I O N

1 BE IT RESOLVED by the House of Representatives of the State of
2 Texas, 78th Legislature, Regular Session, 2003, That House Rule 13,
3 Section 9(a), be suspended in part as provided by House Rule 13,
4 Section 9(f), to enable the conference committee appointed to
5 resolve the differences on Senate Bill No. 1639, relating to
6 regulation of spacing and production of groundwater from aquifers
7 by a groundwater district, to consider and take action on the
8 following matter:

9 House Rule 13, Section 9(a)(4), is suspended to permit the
10 committee to add new sections to the bill to read as follows:

11 SECTION 2. Subchapter B, Chapter 11, Water Code, is amended
12 by adding Sections 11.0235, 11.0236, and 11.0237 to read as
13 follows:

14 Sec. 11.0235. POLICY REGARDING WATERS OF THE STATE.

15 (a) The waters of the state are held in trust for the public, and
16 the right to use state water may be appropriated only as expressly
17 authorized by law.

18 (b) Maintaining the biological soundness of the state's
19 rivers, lakes, bays, and estuaries is of great importance to the
20 public's economic health and general well-being.

21 (c) The legislature has expressly required the commission
22 while balancing all other interests to consider and provide for the
23 freshwater inflows necessary to maintain the viability of the
24 state's bay and estuary systems in the commission's regular

1 granting of permits for the use of state waters.

2 (d) The legislature has not expressly authorized granting
3 water rights exclusively for:

4 (1) instream flows dedicated to environmental needs or
5 inflows to the state's bay and estuary systems; or

6 (2) other similar beneficial uses.

7 (e) The fact that greater pressures and demands are being
8 placed on the water resources of the state makes it of paramount
9 importance to reexamine the process for ensuring that these
10 important priorities are effectively addressed in clear
11 delegations of authority to the commission.

12 Sec. 11.0236. STUDY COMMISSION ON WATER FOR ENVIRONMENTAL
13 FLOWS. (a) In recognition of the importance that the ecological
14 soundness of our riverine, bay, and estuary systems and riparian
15 lands has on the economy, health, and well-being of the state there
16 is created the Study Commission on Water for Environmental Flows.

17 (b) The study commission is composed of 15 members as
18 follows:

19 (1) two members appointed by the governor;

20 (2) five members appointed by the lieutenant governor;

21 (3) five members appointed by the speaker of the house
22 of representatives;

23 (4) the presiding officer of the commission or the
24 presiding officer's designee;

25 (5) the chairman of the board or the chairman's
26 designee; and

27 (6) the presiding officer of the Parks and Wildlife

1 Commission or the presiding officer's designee.

2 (c) Of the members appointed under Subsection (b)(2):

3 (1) one member must represent a river authority or
4 municipal water supply agency or authority;

5 (2) one member must represent an entity that is
6 distinguished by its efforts in resource protection; and

7 (3) three members must be members of the senate.

8 (d) Of the members appointed under Subsection (b)(3):

9 (1) one member must represent a river authority or
10 municipal water supply agency or authority;

11 (2) one member must represent an entity that is
12 distinguished by its efforts in resource protection; and

13 (3) three members must be members of the house of
14 representatives.

15 (e) Each appointed member of the study commission serves at
16 the will of the person who appointed the member.

17 (f) The appointed senator with the most seniority and the
18 appointed house member with the most seniority serve together as
19 co-presiding officers of the study commission.

20 (g) A member of the study commission is not entitled to
21 receive compensation for service on the study commission but is
22 entitled to reimbursement of the travel expenses incurred by the
23 member while conducting the business of the study commission, as
24 provided by the General Appropriations Act.

25 (h) The study commission may accept gifts and grants from
26 any source to be used to carry out a function of the study
27 commission.

1 (i) The commission shall provide staff support for the study
2 commission.

3 (j) The study commission shall conduct public hearings and
4 study public policy implications for balancing the demands on the
5 water resources of the state resulting from a growing population
6 with the requirements of the riverine, bay, and estuary systems
7 including granting permits for instream flows dedicated to
8 environmental needs or bay and estuary inflows, use of the Texas
9 Water Trust, and any other issues that the study commission
10 determines have importance and relevance to the protection of
11 environmental flows. In evaluating the options for providing
12 adequate environmental flows, the study commission shall take
13 notice of the strong public policy imperative that exists in this
14 state recognizing that environmental flows are important to the
15 biological health of our parks, game preserves, and bay and estuary
16 systems and are high priorities in the permitting process. The
17 study commission shall specifically address ways that the
18 ecological soundness of these systems will be ensured in the water
19 allocation process.

20 (k) The study commission:

21 (1) shall appoint an advisory scientific committee
22 that will:

23 (A) serve as impartial scientific advisors and
24 reviewers for the study commission; and

25 (B) have a membership of no fewer than five and no
26 more than nine total members chosen by the study commission to
27 represent a variety of areas of relevant technical expertise;

1 (2) may appoint additional advisory committees to
2 assist the study commission; and

3 (3) may draft proposed legislation to modify existing
4 water-rights permitting statutes.

5 (1) Not later than December 1, 2004, the study commission
6 shall issue a report summarizing:

7 (1) any hearings conducted by the study commission;

8 (2) any studies conducted by the study commission;

9 (3) any legislation proposed by the study commission;

10 and

11 (4) any other findings and recommendations of the
12 study commission.

13 (m) The study commission shall promptly deliver copies of
14 the report to the governor, lieutenant governor, and speaker of the
15 house of representatives.

16 (n) The study commission shall adopt rules to administer
17 this section.

18 (o) The study commission is abolished and this section
19 expires September 1, 2005.

20 Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO
21 ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The
22 commission may not issue a new permit for instream flows dedicated
23 to environmental needs or bay and estuary inflows. This section
24 does not prohibit the commission from issuing an amendment to an
25 existing permit or certificate of adjudication to change the use to
26 or add a use for instream flows dedicated to environmental needs or
27 bay and estuary inflows.

1 (b) This section does not alter the commission's
2 obligations under Section 11.042(b), 11.046(b), 11.085(k)(2)(F),
3 11.134(b)(3)(D), 11.147, 11.1491, 16.058, or 16.059.

4 (c) This section expires September 1, 2005.

5 SECTION 3. Subsections (d) and (e), Section 11.147, Water
6 Code, are amended to read as follows:

7 (d) In its consideration of an application to store, take,
8 or divert water, the commission shall include in the permit, to the
9 extent practicable when considering all public interests, those
10 conditions considered by the commission necessary to maintain
11 ~~[consider the effect, if any, of the issuance of the permit on]~~
12 existing instream uses and water quality of the stream or river to
13 which the application applies.

14 (e) The commission shall include in the permit, to the
15 extent practicable when considering all public interests, those
16 conditions considered by the commission necessary to maintain ~~[also~~
17 ~~consider the effect, if any, of the issuance of the permit on]~~ fish
18 and wildlife habitats.

19 Explanation: This added text is necessary in order to provide for
20 permitting of water rights for instream flows.

Hope

H.R. No. 1738

Speaker of the House

I certify that H.R. No. 1738 was adopted by the House on May 31, 2003, by a non-record vote.

Chief Clerk of the House